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AZ CORP COMMISSION
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Attorneys for Valley Utilities Water Company

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE
APPLICATION OF VALLEY UTILITIES
WATER COMPANY, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY AND FOR INCREASES IN
ITS RATES AND CHARGES FOR
UTILITY SERVICE BASED THEREON.

DOCKET NO: W-01412A-08-0586

Arizona Corporation Commission
DOCKETED

JAN 28 2010

DOCKETED BY 

VALLEY UTILITIES WATER COMPANY'S

EXCEPTIONS

TO RECOMMENDED OPINION AND ORDER

January 28, 2010

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1 known and measurable change. ROO at 22. The Company respectfully disagrees. Each
2 of these factors is addressed separately below.

3 **I. The Company's Proposed Additional Revenue Annualization Downward**
4 **Adjustment of \$102,966 Reflects a "Known and Measurable" Change That, If**
5 **Adopted, Will Obtain a Normal or More Realistic Relationship Between**
6 **Revenues, Expenses and Rate Base for VUWCo.**

7 The Company has proposed a revenue annualization downward adjustment of
8 \$102,966 based on actual water sales losses that occurred for the 12 months after the test-
9 year. To support the revenue annualization adjustment, Robert Prince provided testimony
10 concerning declining water sales due to a lack of construction, a declining customer base
11 and water conservation efforts based on the Company's current rate design. On cross-
12 examination, Mr. Prince conceded that it is impossible to determine when an economic
13 turnaround might go into effect. Tr. at 31-32. However, this uncertainty should not result
14 in a reduction in operating revenue that the Company desperately needs in order to
15 continue providing adequate water service to its customers. The number of gallons sold
16 during 2008 and 2009 averaged nearly 22 million gallons less than during 2007. ROO at
17 20. While it may be impossible to determine when the economy might turn itself around,
18 a recovery is unlikely imminent or just around the corner. Even Staff's engineering
19 witness, Marlin Scott, testified that his customer growth projection was based on a lineal
20 regression analysis, and was used only to determine the status of the Company's capacity.
21 Tr. at 102. Mr. Scott later conceded that actual data trends show the Company's customer
22 base is slowly declining. Tr. at 103. Furthermore, the housing construction activity that
23 occurred during the test-year, resulting in approximately \$40,000 in revenue alone, does
24 not represent a realistic representation of revenue the Company will receive in 2010.¹

25 ¹ Staff did not provide any evidence to refute VUWCo's position that actual water sales occurring within the 12
26 months after the test-year is more indicative of water sales the Company is likely to experience over the next few
years, especially when compared to what occurred during the test-year. Granted, Staff was not able to audit the water
sales data, but if this is the reason for denying the proposed revenue annualization, the Company would support a
delay in this matter so that Staff can perform the required audit.

1 Staff suggested during the hearing that if VUWCo was experiencing insufficient
2 cash flow to pay bills, the Company could file for emergency rates. Tr. at 33. However,
3 even Staff agreed that granting emergency rate relief requires a “sudden” change in
4 circumstances to constitute an emergency, and that a declining customer base and water
5 sales over a two or three-year period would unlikely be considered a ‘sudden’ change to
6 warrant interim relief. Tr. at 135.² The Company’s only option would be to file a full rate
7 case proceeding, and in light of the time necessary to process such an application given
8 the Commission’s limited resources, financial ruin may be a foregone conclusion.

9
10 **II. Building Activity Is Not Likely to Occur in the Imminent Future.**

11 The ROO concludes that building activity within VUWCo’s service area could be
12 imminent, and that this potential creates enough uncertainty to further warrant a denial of
13 the Company’s proposed revenue annualization. ROO at 22. There are three specific
14 subdivisions in VUWCo’s service area that remain undeveloped beyond plat preparation:
15 Bethany Estates, with 62 lots; Dysart Village, with 39 lots; and Luke Ranch, with 40 lots.
16 However, the owners of Dysart Village (Adobe West Construction, Inc.) and Luke Ranch
17 (Luke Ranch Estates, LLC) have declared bankruptcy, and these properties are now held
18 by banks. The third subdivision, Bethany Estates, has been sold to another entity that has
19 not provided any information to VUWCo concerning future development plans. Given
20 this state of affairs, and the lack of home construction throughout Arizona in general, it is
21 much more likely that these three subdivisions will remain inactive for the foreseeable
22 future. The Company respectfully urges the Commission to use its discretion in
23 recognizing such economic issues, and find that the VUWCo’s position represents a more
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25
26 ² The Company collected a total of two arsenic impact fees in 2009. Even if this service connection rate doubled annually, it would take VUWCo 3 full years to recover the 20 lost customers since 2007.

1 realistic relationship to the revenue to be derived from new customers prior to the
2 Company's next rate proceeding.³

3 **III. VUWCo Did Propose Changes in Test-Year Expenses that Were Known and**
4 **Measurable.**

5 The Company did propose adjustments to purchased power and chemical expenses
6 (negative \$9,656 and \$540 respectively) to correspond to its proposed revenue
7 annualization adjustment. ROO at 21. However, it appears that these changes were not
8 enough to convince the ALJ that a revenue annualization adjustment is warranted, based
9 primarily on the fact that VUWCo did not reduce test-year expenses for salaries and
10 wages to reflect fewer employees.

11 The reduction in VUWCo's personnel from seven to four employees (3 full-time,
12 1 part-time) was the function of the Company's poor financial condition, and although the
13 remaining employees have been able to keep the water flowing through hard work,
14 personal effort and sheer determination,⁴ this does not mean that VUWCo's vacant staff
15 positions should not be filled in the absence of service quality issues. The assumption
16 here is that the Company can continue to operate in this manner with half the amount of
17 staff. This is not the case. The Company must hire a Systems Operator – a certified
18 operator Grade 2 Water Treatment (due to newly installed arsenic treatment facilities).
19 VUWCo also currently lacks a customer service representative to address customer
20 request and/or complaints. The Company recently hired a part-time accountant to address
21 regulatory accounting and compliance issues that the ROO recognizes were issues in the
22 past. The lack of personnel has caused customer service and field work to slowly
23

24 ³ Although the Company is required to file its next rate application prior to 2013, such an application will likely be
25 filed much earlier to include the arsenic treatment facilities not currently included in rate base. At that time, rates can
be established based on a test-year that more closely represents the economic conditions that exist today.

26 ⁴ As a family-run business since 1962, the Princes have invested their livelihoods in keeping the Company running
for the benefit of its customers.

1 deteriorate, causing an increasing number of customer complaints. As currently staffed,
2 illness and time away from work might result in an office closure, and emergency
3 response times could be compromised. VUWCo submits that very few, if any, Class B
4 water utilities are able to provide adequate service with three and a half employees. The
5 Company submits that there should be no corresponding reduction to salaries and wages,
6 and that a staff of seven employees is still lower than the average number of employees
7 for Class B utilities.

8 The Company's proposed reductions in purchased power and chemical expenses
9 represents known and measurable changes that correspond with VUWCo's revenue
10 annualization adjustment, and should be adopted in conjunction with same.

11 CONCLUSION

12
13 VUWCo is a small water utility that has increased its equity, addressed compliance
14 issues and constructed plant to continue providing water that meets federal arsenic
15 standards. The Company has implemented several cost-cutting measures to better control
16 expenses, and reduced its staff out of necessity due to a continued lack of revenue.
17 VUWCo worked in cooperation with Staff to resolve several rate case issues prior to the
18 hearing, and while the Company can accept the resolution of all the disputed issues
19 (except one) as set forth in the ROO, it must highlight for the Commission the financial
20 hardship and service quality issues that will most certainly arise if the proposed revenue
21 annualization adjustment is not adopted and the Company is forced to work on a 2.3
22 percent operating margin. Such a low margin will not be enough for the Company to
23 continue improving its equity, as set forth in its Equity Improvement Plan, nor will it
24 provide the funds necessary to address continued operating expenses, let alone
25 unanticipated maintenance and repair expenses. For the reasons provided herein,
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1 VUWCo respectfully requests that the Commission adopt the Company's proposed
2 revenue annualization adjustment as is consistent with the public interest.

3 RESPECTFULLY DATED this 28th day of January, 2010.

4 FENNEMORE CRAIG, P.C.

5
6 By: 

7 Patrick J. Black

8 Attorneys for Valley Utilities Water Company

9 **ORIGINAL** and 13 copies of the foregoing filed
10 this 28th day of January, 2010 with:

11 Docket Control
12 Arizona Corporation Commission
13 1200 West Washington Street
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15 **COPY** of the foregoing hand-delivered
16 this 28th day of January, 2010 to:

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